

THE ANSWERS FILED.

Messrs. Hubbard and Sweeney
File their Responses

IN THE WHEELING BRIDGE SUITS.

They Deny all and Several the Allegations of the Plaintiffs, and say there was no Conspiracy, no Concealment and no Reason for Any. A Synopsis of the Long Documents.

At a late hour yesterday afternoon the answers of Hon. W. P. Hubbard and Mr. John M. Sweeney to the suit of the Wheeling Bridge Company for damages were filed in the office of the clerk of the circuit court. At the same time demurrers to the petitions were put in, alleging that the claims of the plaintiffs, even if all true, were not sufficient in law to establish their claims for damages.

The answers are in many respects identical, and both are very voluminous. The following condensations contain the substance of the papers, however, with the exception of unimportant details:

MR. HUBBARD'S ANSWER.

The separate answer of Hon. W. P. Hubbard says: It is true as alleged in said bill that on February 24, 1890, when the directors met, the construction of the company's two bridges had not been commenced, but it is not true that this defendant, alone or in company with other defendants, had estimated the cost of bridges and approaches at \$327,000, had never made and was not capable of making any estimate, and he was not then aware of any estimate made by any person which placed the cost at less than \$500,000, including real estate, the cost of which was placed at \$50,000. He supposed and expected that the bridges and approaches would cost about \$150,000. Until the contract was made with Ferris & Kauffmann this plaintiff believed \$450,000 to be a fair cost, and to this time has no personal knowledge that it was not, or that it was more than the work cost Ferris & Kauffmann, with usual and reasonable profits added.

It is further alleged that it is not true that this defendant conspired with G. W. G. Ferris, Gustave Kauffmann, W. D. Uptegraff and John M. Sweeney to take the contract for \$125,000 in excess of the estimated cost. No portion of such understanding was arrived at and no similar agreement made or carried out.

Attention is called to the fact that it is not stated in the complaint what is meant by the averment that the bridge was not worth and did not cost the contract price—to whom it was not worth that much, etc. On the contrary, the respondent believes the bridges are worth to the plaintiff much more than their cost, whether considered as cash or regard be had, as it should be, to the manner of the payments actually made. At the time the contract was made the company's stock had no market value. The stock and bonds would have been valueless had the work failed of completion, and at all stages of the work it was hazardous and liable to be disastrously affected by floods or accident.

Another thing affecting the value of the property was the opposition of the Wheeling and Belmont Bridge Company.

Respondent denies that by any act of his or of which he had knowledge plaintiffs were defrauded of any money, and says the other directors had all the knowledge as to cost and details that he had.

It is also denied that there was any combination to make subscriptions to the stock, as alleged, and it is stated that there was as much concert of action in that regard between the defendant, Hubbard, and the parties plaintiff as between him and the other defendants. The only knowledge said Hubbard had of any arrangement with the street car companies was of the present traffic arrangement, and that it was the desire of those companies to secure a way across the river which led to the formation of the contract. The allegation of an agreement to place a majority of the stock in certain hands is absurd, in view of the action of the board conveying half of it to Ferris & Kauffmann. He had no knowledge of any arrangement to have a mimic quarrel in the board meeting.

While said Hubbard was not a secret party to any agreement, he did as counsel prepare the copy of the contract to be signed by plaintiff and said Ferris & Kauffmann.

The earnings of the bridges have been about 6 per cent per annum, besides the interest on \$200,000 bonds, and the bridges are worth all they cost.

The \$3,500 paid on his stock by Ferris & Kauffmann he alleges was in consideration of their being given an interest in the Wheeling Terminal company, and had no reference to the plaintiff company.

Plaintiff F. J. Park was in a position to know the business of Ferris & Kauffmann intimately, respondent insisted upon his accepting the position, and plaintiff's Schmulbach and Hughes were intimately associated with Park, and if there had been any corrupt understanding they would have known it. At that time these three plaintiffs had all the knowledge they now possess as to any contracts or agreements.

It is also recited that a demand was made on the plaintiff for an opportunity to copy from the company's minute books, but was refused, and therefore he is not able to answer in some respects as definitely and completely as he wished.

A part of the averments of Mr. Hubbard's answer are also contained in that of Mr. John M. Sweeney, and the details are given a little more fully below:

MR. SWEENEY'S DEFENSE.

The separate answer of John M. Sweeney to the bill of complaint exhibited against him and others by the Wheeling Bridge company:

This defendant saying and reserving to himself all and all manner of exceptions, etc., for answer to the said bill says: This respondent is unable to state from recollection that the dates of the organization of the plaintiff company and the various meetings at which directors were elected are accurately stated in the bill, and if these dates are important he calls for proof of them. This respondent does not know whether a meeting of the board of directors was held on February 24, 1890, as stated in the bill, nor whether the persons alleged to have been present were in fact there, and calls for proof.

The respondent believes that on the date named construction had not been commenced, but says it is not true that before that date he or other persons had estimated the cost of the bridge to be \$327,000. On the contrary he had never made any estimate of his own, and was not aware at or prior to that time of the making by any person of any estimate which placed the cost below

\$500,000, including amount for necessary real estate, which was estimated at about \$50,000.

Respondent says that until time when Ferris & Kauffmann submitted their bid, which was afterward accepted by the plaintiff, it was supposed the cost would be not less than \$500,000.

Respondent says that estimate made by said Ferris & Kauffmann after their final survey showed cost of construction of said bridges, exclusive of real estate, to be \$452,000, and respondent says he then believed and now believes that that price was not excessive, but was a fair price, making just allowance for the services of Ferris & Kauffmann for engineering work, and for reasonable and usual profits to which they were entitled.

"It is not true that this defendant and the defendants, Ferris, Kauffmann, Hubbard and Uptegraff, had secretly or fraudulently or otherwise combined together and arrived at any such understanding or agreement as set forth in the plaintiff's bill, to the effect that Ferris & Kauffmann should make an offer to the plaintiff's board of directors to take the contract for the construction of the plaintiff's works for the sum of \$452,000, being \$125,000 in excess of the estimated cost thereof, and it is not true that this defendant with the other defendants or with any other person entered into any such agreement or understanding whatever. It is not true that there was any understanding or agreement between this defendant and any other person whatever that he, Hubbard and Uptegraff, should by their influence and votes or otherwise, secure the acceptance of the said or any similar offer by the plaintiff's board of directors. It is not true that any such understanding was carried out by this respondent or any other person to his knowledge at the meeting of February 24, 1890, mentioned in the bill, or at any other meeting. It is not true that there was any understanding or agreement between this defendant and said Ferris, Kauffmann, Hubbard and Uptegraff, or between this defendant and any other person, that any difference between contract price and cost of construction should be divided equally or otherwise between the defendants.

The answer further denies that the company has been defrauded out of the sum of \$132,000, or any other sum, by any act of his, or of any other person so far as he knows. He believes the price paid to Ferris & Kauffmann was \$452,000, but as provided the payment was partly in cash, bonds and stocks of the company, as set forth. He avers that the bridge cost Ferris & Kauffmann more than \$320,000, as set forth in the company's bill, and alleges that the cost to Ferris & Kauffmann was according to his information and belief at least \$350,000 exclusive of engineering, estimated at \$25,000.

The respondent says the bridges are worth more than the amount paid by the company for them. He says that provision was made for the payment to Ferris & Kauffmann of \$200,000 in bonds, on the contract price. This firm also subscribed for stock of the company \$104,000, and at this time the stock could not be said to have had any market value, and whether it would ever have had value depended upon the successful future accomplishment of the work proposed. These bonds also depended for their value on the subsequent completion of the bridges, except for the deed of trust on real estate of small value.

The respondent denies on information and belief that those things in fact done, with reference to the making of the contract, were done without the knowledge of John McLure, Henry Schmulbach and the other stockholders, and says that said Henry Schmulbach and John McLure, who with Hubbard, Uptegraff and the respondent were the board of directors, had all the knowledge and information which this respondent had with reference to that matter. The same is true with regard to the defendant, J. E. Hughes, who was the plaintiff's secretary, and that while the general stockholders who were not members of the board may not have had as specific information of details as this respondent and the other members of the board, yet he alleges on information and belief that all stockholders, from the first until said agreement was made with Ferris & Kauffmann, supposed and expected that the bridges would cost at least \$450,000, exclusive of real estate. He denies that any combination, conspiracy or agreement with reference to the said bridges was ever concealed by him from the said McLure or Schmulbach or the other stockholders. He denies that he with Hubbard and Uptegraff contracted with themselves and Ferris & Kauffmann for the construction at a fraudulent price, or at any price or manner, and denies that any such thing was done, also that \$450,000 was not exorbitant.

He denies that there was in October, 1889, any such agreement as alleged in plaintiff's bill. He denies that the increase of the stock of the defendants had anything to do with the alleged agreements, which did not include Schmulbach, McLure and Hughes. Both his subscriptions to stock were made in good faith. He denies that in December, 1889, or at any other time it was decided among said Uptegraff, Hubbard, Ferris, Kauffmann and this respondent that any such made of procedure should be followed as alleged in the bill. He denies that any estimate of the cost of the bridges had then been made, also denies that they made any such guaranty with reference to the street car company. He denies any conspiracy to throw the majority of the stock into the hands of the defendants, and denies any secret understanding.

Respondent denies that he ever suggested such agreement as set forth in exhibit number one of the plaintiff's bill. He says the only distinct proposition ever made by Ferris & Kauffmann was for \$452,000, and later at \$450,000. He denies any change of estimate from \$320,000 to \$452,000.

He denies in full the allegation in plaintiff's bill of a mock quarrel, and has no recollection of any such quarrel. He denies that he concealed any knowledge as to the contract from the board of directors, as alleged. He denies the meeting of the board and calls for proof. He denies on belief that Hubbard was a secret party to the contract. He denies the subscribing by himself, Hubbard or Uptegraff to stock with intent to defraud.

He denies that payments made to him by Uptegraff, were in pursuance of any secret agreement, but were for a matter entirely distinct from the matter of the bridges. The matter was as follows: As is well known the Wheeling Bridge & Terminal Railway Company was constructing a terminal system, including a steel bridge over the Ohio, and other expensive works. On the Ohio side were several railroads, which, until the completion of the said terminal road, were compelled to stop there and transfer to the city by boat or otherwise. The object of the terminal system was to furnish facilities for these roads to enter the city. Respondent says one of these roads was not willing to take advantage of the terminal system, and was likely to look with favor on any plan that would give it another entrance. Under these circumstances a plan to organize

a company to bridge the western branch of the Ohio from Bridgeport or Kirkwood to Wheeling Island, and build a terminal system on over to the city, and thus give this road an entrance to the city and for any other roads. Negotiations were had between the railway company and Uptegraff, and an understanding reached that such a company should be organized and that the company should be interested with Hubbard, Uptegraff and respondent in the proposed terminal road. In pursuance of a corporation was organized called the Wheeling Terminal Company, and the company purchased land on Wheeling Island. These allegations with reference to negotiations the respondent makes on belief and information. Ferris & Kauffmann became acquainted with the project and desired to acquire an interest, and negotiated with Uptegraff, and the latter submitted to respondent a proposition from Ferris & Kauffmann that they would pay for respondent \$10,000 stock in plaintiff's company, as payments on same should be called for, being in consideration of Ferris & Kauffmann acquiring an interest in the said project. Respondent assented and \$6,500 was paid. They failed to pay the \$3,500 and respondent had to pay it. The respondent then avers that by reason of the payment of said \$6,500 the plaintiff was not defrauded.

The respondent does not know whether Ferris & Kauffmann claim that they contracted to pay the sub-contractors \$297,000 for the bridges. He believes the aggregate of the sub-contracts far exceeded that sum.

Respondent has no precise knowledge of the knowledge possessed by Hughes, Schmulbach and Park at the times when they entered into the contracts of December 1, 1890, and April 2, 1892, but on information alleges that they had notice of the facts as they really existed, and that they had abundant opportunities to become acquainted with the facts, and denies that they went into the contracts without knowledge of the facts.

At the conclusion of the answer the respondent asks that the said bill be dismissed, and that he may have his reasonable costs.

ABOUT PEOPLE.

Strangers in the City and Wheeling Folks Abroad.

Charles Groves, of Marietta, is in town.

Walter Lenier, of Grafton, is at the Stamm.

E. J. Boebe, of Fairmont, is registered at the Behler.

C. H. Betts, of Pruntytown, is registered at the Stamm.

Charles Burkham, of New Martinsville, is a Behler guest.

Robert H. Browne, of Grape Island, is registered at the Windsor.

T. J. Kincaid, of Pennsboro, registered yesterday at the Stamm.

Mr. F. W. Baumer is home from a business trip to New York.

Mr. James Thompson departed over the Panhandle yesterday for New York.

Dr. C. M. Frissell left last evening for Washington City on a business trip of several days.

Miss Rose Hunter, of the Island, has returned from an extended visit with friends in Baltimore.

President Brewster, of the Terminal road, left yesterday afternoon for his home in New York city.

C. C. Showalter, of the West Virginia reform school for boys at Pruntytown, is registered at the Stamm.

Mr. George W. Connel, who has been visiting his parents and many friends at his old home in Newark, Ohio, for the past ten days, returned to the city last night.

Mrs. Sidney Drew is so unwell that it is doubtful if the company can proceed on its route to-day. It is booked for McKeesport to-night, but may have to cancel the date.

Rev. Bishop J. J. Kain, of Wheeling, and Father O'Kain, of Clarksburg, are the guests of Father Hickey. The Bishop will be here all of the week.—Parkersburg Journal.

Dr. Robert O. McMaster will receive his friends to-day and to-morrow, from 3 o'clock to 10 o'clock p. m., the occasion being the formal opening of his new hospital on Chapline street.

J. H. Moore, of Sistersville; E. O. Hiehle, of Parkersburg; M. A. Brast, of New Martinsville, and George J. Kearnes, of Fairmont, are among the West Virginians at the Behler.

A Great Success.

There are many remarkable successes on the road this season, but none exceed the popularity enjoyed by the latest New York success, "She Couldn't Marry Three." Press and public accord it an ovation wherever presented. The scenic effects are superb, the story an intense and interesting one, unlike the many unreasonable and unnatural plays with which the public are surfeited. It is full of hearty laughter, bright and catchy music, the most sensational climaxes.

The company is one of the strongest on the road, the scenery the most magnificent ever built, and as the curtain rises on each act, prolonged applause attest the public appreciation of each beautiful stage picture. The great scenic artists, Messrs. Daniel Crimmins and Herbert Speck, feel justly proud of their work on this production.

"The Emergency Man."

Mr. and Mrs. Sidney Drew and their company appeared at the Opera House last night in a play now to Wheeling, "The Emergency Man." Though called a comedy-drama, it is almost a melodrama, and the talented pair never appeared to better advantage. They were several times recalled, and the enjoyment of the audience was enthusiastic throughout.

Roland Reed's Visit.

There was an unusually large sale yesterday of seats for the engagement at the Opera House Friday and Saturday of Roland Reed. He presents three fine plays, and full houses at every appearance are now assured. Mr. Reed is a Wheeling favorite, and his visit this year bids fair to be one of the most notable engagements in the dramatic annals of the city.



EASY TO TAKE
—Dr. Pierce's Pleasant Pellets.
Smallest, easiest, cheapest, best. They're tiny, sugar-coated, anti-bilious granules, a compound of refined and concentrated vegetable extracts. Without disturbance or trouble, Constipation, Indigestion, Bilious Attacks, Sick and Bilious Headaches, and all derangements of the liver, stomach, and bowels are prevented, relieved, and cured. Permanently cured, too. By their mild and natural action, these little pellets lead the system into natural ways again. Their influence lasts.

Everything catarrhal in its nature, catarrh itself, and all the troubles that come from catarrh, are perfectly and permanently cured by Dr. Sage's Catarrh Remedy. No matter how bad your case or of how long standing, you can be cured.

LOCAL BREVITIES.

Matters of Minor Moment in and about the City.

There was not a case for the mayor's court yesterday.

The W. L. Wilson Tariff Students will hold an important business meeting this evening.

Two disorderlies and a drunk were run in by Officer Scally last night, a disorderly by Oughton and a drunk by West.

Next Saturday evening a benefit will be given E. W. Stephens Post, G. A. R., at Westwood's hall, when A. T. Ray will appear as Toodles.

WILLIAM MEYER was up before Squire Phillips yesterday charged with placing obstructions on the street railway track. He gave bond for his appearance next Monday morning at 10 o'clock.

This evening the German-American Veterans' Society will dedicate the new American flag recently presented to it. An English address will be made by Lieutenant Braunerreuther, and other exercises will be held in German.

The Opera House Orchestra's annual promenade concert and ball will be given at the Arion hall this evening, and a very attractive programme has been arranged. Doubtless the attendance will be large, as it usually is on these occasions.

REV. DR. A. B. RIKER, of the Fourth Street M. E. church, will lecture to "men only" at the Opera House next Sunday afternoon at 3:30 o'clock. His subject will be, "The Sins Peculiar to Men," and it will be under the auspices of the Young Men's Christian Association.

There will be no formal opening of the Keeley institute in this city until the present severe weather is over. There will, however, be one as soon as the weather will permit. Col. Pratt, the secretary and manager of the company, in the meantime will be pleased to receive calls at his office from all who are interested in the Keeley Cure, or are desirous of making inquiries concerning it. The institute will be in readiness to receive patients on and after Friday of the present week.

SEVERAL SOCIAL EVENTS.

A Number of Pleasant Affairs Given Last Evening.

The "Ideals," composed of well known and popular young gentlemen, gave a delightful hop at the rooms of the Mercantile club in Franzheim's hall, last night. About forty couples were present and danced to the delightful music of Killmyer. The toilets of the ladies were very pretty and striking, and added much to the beauty and pleasure of the dance, which was very enjoyable.

The Alsace-Lorraine Society gave a very jolly dance at the Beethoven hall last evening. A big crowd was present to enjoy the fun. Mayor's orchestra furnished the music. The committee in charge of the affair were Messrs. John Steil, Joe Ritter, Joseph Pfeiffer, August Rainbolt and Michael Blum.

Invitations have been issued for a big reception and card party to be given by Mr. and Mrs. F. H. Stamm on next Tuesday evening, in the parlors of the McClure House.

FINE French China Plates from \$2 per dozen up, at Wheat & Hancker's special sale.

CHICKERING PIANO

for
Eighty-five dollars
for sale by
F. W. BAUMER & CO.

BEAUTIFUL pieces of China and Pottery at cost prices, to close out this line of goods, at
WHEAT & HANCHER'S.

DIED.

ALLEN.—On Tuesday, February 7, 1893, at 10 o'clock a. m., RICHARD ALLEN, in his 71st year.

Funeral from his late residence, on Fairmont Pike, this (Thursday) afternoon at 2 o'clock. Interment at Stone Church Cemetery. Friends of the family invited.

WIEDERBUSH.—On Thursday, February 9, 1893, at 11:40 a. m., WILLIAM WIEDERBUSH, at his residence, corner of Sixteenth and Woods streets.

Funeral notice hereafter.

WYNTERS.—At the residence of his parents, in Sand Hill, Marshall county, W. Va., on Friday, January 13, 1893, RALPH, infant son of Richard L. and Mary V. Winters, aged 3 months.

Yes, angels have waited another one of the sweet ones home who has never tasted the sin of iniquity years. How sweet the sleep of those who die in innocence, for when he comes to make up His jewels this little one will only brighten the crowns of immortality.

The little crib is empty now.

The little clothes laid by.

A mother's home, a father's joy

In death's cold arms doth lie.

Go, little pilgrim, to thy home

On yonder blissful shore.

We miss thee here, but soon we'll come

Where thou art gone before.

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